



DEPARTMENT OF ENVIRONMENTAL PROTECTION
Monthly Enforcement Report
for actions during September 2009
DISTRIBUTED: October 16, 2009

This report has been prepared to satisfy a statutory obligation the Maine Department of Environmental Protection has to inform the public of certain enforcement resolutions. Please contact Peter Carney at (207) 287-4305 or peter.j.carney@maine.gov for additional information regarding the activities listed in this report. The full text of most Administrative Consent Agreements is available on the Board of Environmental Protection's website at <http://www.maine.gov/dep/bep/agenda.htm>.

The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose penalties to deter similar actions in the future.

Administrative Consent Agreements Approved by the Board of Environmental Protection and Office of the Attorney General (party followed by location):

Air:

Maietta Enterprises, Inc., West Baldwin, Maine. Maietta Enterprises, Inc. ("Maietta") violated the Department's *Major and Minor Source Air Emission License Regulations* and provisions of the facility's air emission license by failing to acquire a license for a new rock crusher that had replaced a previously-licensed crusher and Maietta violated its air emission license by failing to keep or maintain records in accordance with the license. In addition, Maietta violated the Department's rule concerning *Open Burning* by conducting open burning of prohibited materials. To resolve the violations, Maietta will pay \$1,400 as a civil monetary penalty.

Land:

Reg Bauer and Surveyworks, Inc., Leeds, Maine. Reg Bauer ("Bauer") and Surveyworks, Inc. ("Surveyworks, Inc.") violated provisions of Maine's *Natural Resources Protection Act* by removing or causing the removal of vegetation, filling or causing to be filled, displacing or causing to be displaced soil and other materials, and constructing or causing to be constructed a permanent structure, in, on, or over a significant wildlife habitat without first obtaining a permit from the Department. Specifically, roads and lots associated with the construction of a subdivision were constructed within a significant wildlife habitat which has been mapped as an Inland Waterfowl and Wading Bird Habitat. Approximately 2.86 acres of habitat were impacted by the construction. To resolve the violations, Bauer agreed to submit an after-the-fact permit application and comply with the terms of the permit if approved, or if the permit is denied, returned, withdrawn, or not submitted, submit a restoration plan to remove unapproved portions of the construction within the significant wildlife habitat and completely restore the significant wildlife habitat to its original condition. In addition, Bauer paid \$3,550 as a civil monetary penalty.

Prock Marine Company, Bristol, Maine. Prock Marine Company ("Prock") violated provisions of Maine's *Natural Resources Protection Act* and the provisions of a Department-issued license for the construction of a float haul out and alteration of a float and pile configuration of an existing pier by failing to follow the plans submitted in support of and approved in the license and by displacing soil in a coastal wetland. Specifically, heavy equipment was being operated in a coastal wetland without the use of erosion control mats to prevent disturbance of the intertidal area as set forth in Prock's license application. To resolve the violations, Prock paid \$1,900 as a civil monetary penalty.

Wal-Mart Real Estate Business Trust, Wal-Mart Stores, Inc., and RL Spencer, Inc., Bangor, Maine. Wal-Mart Real Estate Business Trust and Wal-Mart Stores, Inc. (collectively "Wal-Mart"), and RL Spencer, Inc. ("RL Spencer") violated provisions of Maine's *Site Location of Development* law and the provisions of a Department-issued license for the construction of a Wal-Mart Supercenter. Specifically, construction was started on the project without first having a pre-construction meeting with Department staff, without obtaining approval of the third-party inspector for the project, erosion control measures were not installed in accordance with the Maine Erosion and



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Sediment Control Best Management Practices, and sediment was allowed to erode beyond the project boundary. By allowing sediment to erode beyond the project boundary Wal-Mart and RL Spencer also violated Maine's *Erosion and Sedimentation Control* law. Following Department involvement, erosion control measures were promptly installed and maintained and were functioning as required. To resolve the violations, Wal-Mart and RL Spencer paid \$20,150 as a civil monetary penalty.